

**BOARD OF APPEALS CASE NO. 5254**

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**BEFORE THE**

**APPLICANT: Mountain Branch LLC**

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**ZONING HEARING EXAMINER**

**REQUEST: Variances to locate two signs which exceed the height and area restrictions in the AG District; east side of Mountain Road, Joppa**

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**OF HARFORD COUNTY**

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**Hearing Advertised**

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**Aegis: 4/3/02 & 4/10/02**

**HEARING DATE: June 12, 2002**

**Record: 4/5/02 & 4/12/02**

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## **ZONING HEARING EXAMINER'S DECISION**

The Applicant, Mountain Branch LLC, is requesting a variance, pursuant to Sections 219-17 and 219-7K, of the Harford County Sign Code, to allow a development project sign larger than 32 square feet (36 square feet proposed) and higher than 6 feet (8.5 feet proposed); a variance, pursuant to Section 219-7K, to allow a second existing development sign to remain temporarily for a period not to exceed three years with a sign area greater than 32 square feet (110 square feet proposed) with a height greater than 6 feet (11.5 feet proposed); and a variance, pursuant to Section 219-7K, to replace, within 3 years, the temporary sign with a permanent sign that has an area greater than 32 square feet (46.5 proposed) in an Agricultural District.

The subject parcel is located on the east side of Mountain Road between Stockton and Singer Roads and is known as the Mountain branch Golf Club. The parcel is more particularly identified on Tax Map 60, Grid 1F, Parcel 46, consists of 267.04 acres, is currently zoned AG/Agricultural and is entirely within the First Election District.

Mr. Christopher Schaefer appeared and testified he is the manager of Mountain Branch Golf Club. The witness stated that the parcel contains a restaurant and pub, an 18-hole championship golf course and a golf school. There are 3 separate entrances to the parcel from Mountain Road. The golf school is not accessible by automobile from the restaurant or clubhouse on any interior roads. Access is separate and provided by different entrance drives. Proposed is allowance of two existing signs; one located at the golf school entrance and the other at the club house entrance.

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The existing sign at the clubhouse is currently a bi-fold affair and is depicted on Applicant's Exhibit No. 15. The sign at the golf school is shown on Applicant's Exhibit No. 10. The witness indicated that they want to leave the current clubhouse sign in place for three years and then replace it with permanent signage that will be hung on an accessory wall to be built at the entrance of the clubhouse drive. The reason for the delay is, apparently, a budgetary one, in that there are insufficient funds currently budgeted for the new signage and entrance wall. Mr. Schaefer said that the signage could not be smaller or lower because of the very large setbacks from Mountain Road present at this location. He indicated that he regularly gets complaints that the course and/or school and clubhouse is difficult to spot until drivers are upon it, particularly at night. The sign for the golf school will not be lit at night.

Mr. William Monk appeared and qualified as an expert land planner. Mr. Monk described the property and surrounding area. He located the existing and proposed signs on the site plan. He described the stands of trees that currently reduce sight distance from signs to road, a perched area that is higher in elevation than either of the two proposed sign locations and the grade of the road at the golf school sign location. Mr. Monk pointed out that the golf school sign is 130 feet from the road surface and is below road grade. The golf school sign is totally blocked from the view of southbound traffic until drivers are on top of it. In Mr. Monk's opinion, the parcel has unique characteristics that warrant the grant of the variances including topography, distance from road bed, and speeds along Mountain Road.

Mr. Monk introduced and described a number of photos of the site and the existing signage. These photos are accurate depictions of the existing site and signage. Mr. Monk, referring to Exhibit No. 8, described the proposed replacement sign that will be erected in three years if that variance is granted. He described the architectural structure and sign as similar to the wall and sign located across Mountain Road on the Mountain Christian Church property. The replacement sign is lower than the temporary sign, the materials match those of the clubhouse, it will be illuminated at night and will not exceed 6 feet in height. The temporary and replacement signs promote the business use, provide directional information and, in his opinion, are consistent with existing signage in the immediate area. Mr. Monk felt that the proposed permanent sign would preserve and enhance the natural and scenic beauty of the area. On cross-examination, Mr. Monk indicated that signage is allowed in the AG District, pursuant to Section 219-13(D) of the Sign Code.

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Mr. Anthony McClune appeared on behalf of the Department of Planning and Zoning. The Department recommends approval of the requested variances finding the property has exceptional circumstances warranting the grant of the variances. These include the topography, distance from traveled surface of Mountain Road, the speeds along Mountain Road, and existing foliage that will continue to grow and further obscure the Mountain Branch Club from passing motorists. McClune felt that the size and height proposed was reasonable in light of the circumstances of the property. He described the proposed entrance wall as an architectural accessory that is allowed in the zone. Mr. McClune also described other sizes and heights of signs allowed in the AG zone for other uses and pointed out that Institution use signage could be 54 square feet, farming uses 32 square feet.

Gloria Moon, who lives 1/4 mile away, appeared in opposition to the request. The witness stated that a large illuminated sign like that existing and proposed looks very commercial in nature. She did not feel the sign was needed to serve directional purposes at night because the building and parking lot are lit after dark.

Ms. Patricia Dallam, who lives 1 mile away from the subject property, appeared in opposition to the request. Ms. Dallam thinks the overall use by Mountain Branch is objectionable, that the golf club replaced a historic barn, and that lighting is “heavy duty light pollution”, in her opinion. She admitted that she cannot see any of the existing or proposed signage from her property.

Lee Crush, who lives 1 mile away, appeared in opposition to the proposed variances. While the witness candidly admitted that she loved the restaurant, she feared the continued commercialization of an otherwise agricultural area.

**CONCLUSION:**

The Applicant, Mountain Branch LLC, is requesting a variance, pursuant to Sections 219-17 and 219-7K of the Harford County Sign Code, to allow a development project sign larger than 32 square feet (36 square feet proposed) and higher than 6 feet (8.5 feet proposed); a variance, pursuant to Section 219-7K, to allow a second existing development sign to remain temporarily for a period not to exceed three years with a sign area greater than 32 square feet (110 square feet proposed) with a height greater than 6 feet (11.5 feet proposed); and a variance, pursuant to Section 219-7K, to replace within 3 years the temporary sign with a permanent sign that has an area greater than 32 square feet (46.5 proposed) in an AG District.

Section 219-7K provides:

“Permanent residential entrance or development project identification signs. Residential entrance or development project identification sign with letters or advertising area not to exceed a total area of thirty-two (32) square feet shall be permitted on the property, provided that it is located not less than ten (10) feet from the road right-of-way line. In addition, the height of the sign or structure shall not exceed six (6) feet. If the parcel or lot has a multiple frontage of at least fifty (50) feet, additional signs with letters or advertising area not to exceed a total of thirty-two (32) square feet shall be permitted. Such sign or structure shall not exceed six (6) feet in height and shall not be located less than ten (10) feet from the road right-of-way. Said signs may be split entrance signs; however, the overall advertising area may not exceed the thirty-two (32) square feet.”

Section 219-17 provides:

“The Board may grant a variance from the provisions of this chapter if, by reason of the configuration or irregular shape of the lot or by reason of topographic conditions or other exceptional circumstances unique to the lot or building, practical difficulty or unnecessary hardship results. The Board shall, before granting the variance, make a written finding as part of the record that the conditions or circumstances described are unique to the lot or building, that the conditions or circumstances cause the difficulty or hardship and that the variance can be granted without impairment of the purpose and provisions of this chapter.”

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Based on the testimony of all of the witnesses and the Exhibits introduced, the Hearing Examiner makes the following findings of fact:

- (1) There are exceptional circumstances related to the property. These include the very use itself, permitted by special exception pursuant to Board Approval which allows 3 separate and distinct, but related uses, on this parcel. The business permitted there, requires signage to advertise its services and to direct travelers appropriately and safely to the property. There are topographical conditions including rolling terrain and distance from road bed that contribute to these exceptional circumstances. The speeds on Mountain Road are 50 mph posted and plantings have occurred in the road right of way that will contribute in the future to reduced sight distance to this use.
- (2) The unique and exceptional circumstances associated with this property create the need for the variances. In order to see a sign it must be large enough and high enough to accomplish this primary purpose. The existing and proposed signage accomplishes this objective without being obtrusive or overly commercial.
- (3) The sign code is established to protect property values, to protect the character of the neighborhoods in the county, to preserve and enhance natural scenic beauty, to protect the health, safety and morals and to promote the general welfare. The sign code is not intended to prohibit tasteful, attractive signage associated with permitted uses in any zone and allows variances if special circumstances exist that warrant them. Allowing the requested variances generally will not impair the purpose or intent of the Code.

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The Hearing Examiner is concerned regarding the Applicant's request to have a temporary sign in place for 3 years. The reason for this request is because of budgetary constraints created by the Applicant. The need sufficient to justify a variance must be substantial and urgent and not merely for the convenience of the applicant. McLean v. Soley, 270 Md. 208, 310 A.2d 783 (1973). "...The need sufficient to justify an exception must be substantial and urgent and not merely for the convenience of the applicant , inasmuch as the aim of the ordinance is to prevent exceptions as far as possible, and a liberal construction allowing exceptions for reasons that are not substantial and urgent would have the tendency to cause discrimination and eventually destroy the usefulness of the ordinance." City of Baltimore v. Byrd, 191 Md. 632, 62 A.2d 588; Carney v. City of Baltimore, 201 Md 130, 93 A.2d 74 (1952). In the opinion of the Hearing Examiner, the Applicant's request to allow a temporary sign to exist for three years is one merely for the Applicant's convenience and is not substantial or urgent and is certainly not the result of the exceptional circumstances on the property.

For the foregoing reasons, the Hearing Examiner recommends that the requested variance related to the "Go For It" golf school sign (identified as "Sign A" in the application) be approved; that the request to allow a temporary existing sign to be replaced in three years by a new, albeit smaller sign be denied; and that the request for a variance to allow a new development sign at the entrance that does not exceed 6 feet in height or 46.5 square feet in area and that is materially like that depicted in Applicant's Exhibit 8 be approved all subject to the following conditions:

1. The Applicant obtain any and all necessary permits and inspections.
2. That the existing bi-fold sign at the clubhouse entrance be removed within 120 days of this decision becoming final.

Date JULY 8, 2002

William F. Casey  
Zoning Hearing Examiner